

PROPOSED BY: DOT WARNER, BSN, RN, MS, NCSN  
ELEMENTARY SCHOOL NURSE – BUTTE SCHOOL DISTRICT #1  
MEMBER: MONTANA ASSOCIATION OF SCHOOL NURSES  
MEMBER: NATIONAL ASSOCIATION OF SCHOOL NURSES  
BOARD MEMBER: NATIONAL CERTIFIED SCHOOL NURSES  
PARENT OF 2 CHILDREN WITH ASTHMA & ALLERGIES  
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KEYPOINTS NEEDING CLARIFICATION IN SB 289 –  
“AN ACT ALLOWING PUPILS TO CARRY AND SELF ADMINISTER PRESCRIBED  
MEDICATION FOR ASTHMA, SEVERE ALLERGIES AND ANAPHYLAXIS”

- The medications referred to in this bill should be “prescribed medications for asthma, allergies and anaphylaxis” – this language needs to be clearly communicated each time “medication” is referred to; Montana students age range is 3-21 years – with this is a wide variation in weight as well - necessitating a specific order for each individual student
- Sharing of information amongst school staff members regarding students with asthma, allergies and potential anaphylaxis is vital. The proposed language states the information will be kept on file in the school nurse or school administrator’s office. It is quite possible that both the school nurse and school administrator may be out of the building at the same time -- files may be locked in their absence and of no help to a student experiencing asthma, allergy or anaphylaxis episodes.
- Providing a backup (2<sup>nd</sup> dose) of the medication to the school should be an OPTION for parents – Not a legal mandate. Epi pens and inhalers are costly and have short shelf lives - parents have expressed that providing multiple doses of the same med should be a choice based on the severity of each individual with asthma/allergies/anaphylaxis and at the discretion of the prescribing provider. School districts will certainly accept and store back up meds in predetermined locations when provided but fear if this is a mandate not an option – STUDENTS AND PARENTS WILL NO LONGER SHARE THE HEALTH INFORMATION THAT THEIR CHILD HAS EMERGENCY MEDICATION PRESCRIBED AT ALL. THIS PRESENTS MORE RISK THAN NOT HAVING AN EXTRA DOSE AT SCHOOL
- On page 3 – (7) add language so that persons other than the student with allergies will have knowledge as to the whereabouts of the back up medication along with training in administering the med if the student would need assistance. If the student is reporting to use the back up dose of medication – THERE HAS OBVIOUSLY ALREADY BEEN SOME DELAY IN THAT THE STUDENT DID NOT HAVE ACCESS TO AND SELF ADMINISTER THE DOSE THAT HE OR SHE WAS ORDERED TO CARRY AND SELF ADMINISTER. For this reason, it is extremely important that staff beyond the student are aware of the location of the back up med as well as how to safely administer if the student would require assistance.
- \*\* Additionally, strike the word IMMEDIATE in section (7) - as mentioned above – a delay has already occurred in that the student did not have the first dose of medication “on his/her person” as ordered – therefore the word immediate is not feasible – school districts will certainly do all they can to have the back up medication accessible – but stating it will be immediately accessible is not realistic in this situation

# 2007 Montana Legislature

SENATE BILL NO. 289

INTRODUCED BY GALLUS, BECKER

WORDS THAT ARE IN BLACK FONT AND UNDERLINED IS LANGUAGE PROPOSED BY SENATOR  
STEVE GALLUS

WORDS IN BOLD – RED – ALL CAPS ARE FRIENDLY AMENDMENTS PROPOSED BY THE  
MONTANA ASSOCIATION OF SCHOOL NURSES

CONTACT PERSON – DOT WARNER – BSN, RN, MSN, NCSN  
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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUPILS OF PUBLIC AND NONPUBLIC SCHOOLS TO CARRY AND SELF-ADMINISTER PRESCRIBED MEDICATION FOR ASTHMA, SEVERE ALLERGIES, OR ANAPHYLAXIS; AMENDING SECTION 20-5-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-420, MCA, is amended to read:

"20-5-420. Self-administration or possession of asthma PRESCRIBED ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication. (1) As used in this section, the following definitions apply:

(a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing, medical intervention.

(c) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe ~~asthma~~ medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(5).

(d) "Self-administration" means a pupil's discretionary use of the ~~asthma~~ medication prescribed for the pupil.

(e) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as food, pollen, or dust.

(2) A school, whether public or nonpublic, shall permit the possession or self-administration of **PRESCRIBED** medication by a pupil with asthma ~~or, severe allergies,~~ OR ANAPHYLAXIS if the parents or guardians of the pupil provide to the school:

(a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4), for the possession or self-administration of **PRESCRIBED** medication;

(b) a written statement from the pupil's physician, physician assistant, or advanced practice registered nurse containing the following information:

(i) the name and purpose of the medication;

(ii) the prescribed dosage; and

(iii) the time or times at which or the special circumstances under which the **PRESCRIBED** medication is to be administered;

(c) documentation that the pupil has demonstrated to the health care practitioner and the school nurse, if available, the skill level necessary to ~~administer the~~ SELF-ADMINISTER THE ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication as prescribed; and

(d) documentation that the pupil's physician, physician assistant, or advanced practice registered nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes of the pupil and for **PRESCRIBED** medication use by the pupil during school hours.

(3) The information provided by the parents or guardians must be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator, **AND THIS INFORMATION MAY BE SHARED ON AN "AS NEEDED" BASIS WITH OTHER SCHOOL STAFF IN MAINTAINING THE HEALTH AND SAFETY OF THE STUDENT"**

(4) The school district or nonpublic school and its employees and agents are not liable as a result of any injury arising from the self-administration of medication by the pupil unless an act or omission is the result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic school may not incur liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school and its employees and agents against any claims, except a claim based on an act or omission that is the result of gross negligence, willful and wanton conduct, or an intentional tort.

(5) The permission for self-administration of **PRESCRIBED** ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication is effective for the school year for which it is granted and must be renewed each subsequent school year or, if the medication EXPIRES OR THE dosage, frequency of administration, or other conditions change, upon fulfillment of the requirements of this section.

(6) If the requirements of this section are fulfilled, a pupil with asthma or, severe allergies, OR ANAPHYLAXIS may possess and use the pupil's **PRESCRIBED** medication:

- (a) while in school;
- (b) while at a school-sponsored activity;
- (c) while under the supervision of school personnel;
- (d) before or after normal school activities, such as while in before-school or after-school care on school-operated property; or
- (e) while in transit to or from school or school-sponsored activities.

(7) If provided by the parent or guardian and in accordance with documents provided by the pupil's physician, physician assistant, or advanced practice registered nurse, **PRESCRIBED ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS** medication may be kept by the pupil and backup medication, **IF PROVIDED FROM HOME**, must be kept at a pupil's school in a predetermined location or locations to which the pupil, **SCHOOL NURSE, AND/OR OTHER DESIGNATED STAFF MEMBER WITH PROPER TRAINING** has immediate access in the event of an asthma, SEVERE ALLERGY, or anaphylaxis emergency.

(8) Immediately after using SELF ADMINISTERED epinephrine during school hours, a student shall report to the school nurse or other adult at the school who shall provide follow-up care, including making a 9-1-1 emergency call.

~~(8)~~(9) Youth correctional facilities are exempt from this section and shall adopt policies related to access and use of asthma and, SEVERE allergy, OR ANAPHYLAXIS medications."